

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Petition For Declaratory Ruling	)	
That Inflexion Communications	)	WC Docket No. 04-52
ExtendIP VoIP Service Is Exempt	)	
From Access Charges	)	

**COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.  
IN OPPOSITION TO THE PETITION FOR DECLARATORY RULING**

Qwest Communications International Inc. submits these comments in connection with the *Petition for Declaratory Ruling that Inflexion Communications' ExtendIP VOIP Service Is Exempt from Access Charges*, WC Docket No. 04-52, filed Feb. 27, 2004 ("Petition"). See Public Notice, DA 04-627, rel. Mar. 8, 2004. Inflexion Communications Corporation ("Inflexion") asks that its product ExtendIP be exempt from access charges and be provided over end-user local, rather than switched access, facilities. Petition at 2.

Inflexion does not provide enough information about its ExtendIP product for the Federal Communications Commission ("Commission" or "FCC") to make a reasonable determination regarding whether it is or is not a telecommunications service, or whether there is a sound basis to support the Inflexion contention. For that reason, Qwest opposes Inflexion's request and respectfully suggests that the Commission can resolve Inflexion's issues in its pending rulemaking *In the Matter of IP-Enabled Services*, WC Docket No. 04-36 ("VOIP Rulemaking"). See Notice of Proposed Rulemaking, FCC 04-28, rel. Mar. 10, 2004. In the VOIP Rulemaking, the Commission will presumably resolve Inflexion's concerns by clearly defining Voice Over the

Internet Protocol (“VOIP”) and setting forth in detail when access charges apply to such services.

Inflexion says that the uncertainty as to whether its services will have to pay access charges and whether the services can be provided over local access facilities has hindered investment in Inflexion’s product. Petition at 2. Inflexion does not provide enough information to allow thoughtful decision-making as to the issues that Inflexion presents. For example, Inflexion says that ExtendIP “fits only in part within the functional test for telecommunications service proposed in the Stevens Report.” *Id.* at 3 (citation omitted). However, Inflexion does not provide any details regarding how Inflexion does or does not fall within the FCC’s traditional definition of telecommunications services.<sup>1</sup> Inflexion does not provide details regarding how the service uses the Internet Protocol (“IP”) and how the service uses Time Division Multiplex (“TDM”).<sup>2</sup> Moreover, the Petition does not describe how Inflexion plans to connect with its end users – *i.e.*, whether the service uses a broadband connection or a traditional analog connection. These details are necessary before parties can express an informed view as to Inflexion’s Petition.

It is not enough for Inflexion simply to state that the service is a “VOIP” service. Industry participants have been attaching the VOIP title to many different services in an effort to avoid access charges and other costs. Some of those services, such as the services that are the subject of AT&T’s recent *Petition for Declaratory Ruling that AT&T’s Phone-to-Phone IP Telephony Services Are Exempt from Access Charges*, WC Docket No. 02-361, do not involve a

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<sup>1</sup> Of course, the Stevens Report is not a binding order and did not purport to either make or modify existing law.

<sup>2</sup> Since the Inflexion Petition claims that the Inflexion service should not pay switched access charges for access to local exchange switching facilities, we must assume that at least part of the Inflexion service uses the public switched telephone network.

net protocol conversion – that is, they originate and terminate as TDM calls and are only carried at some point in the middle in an IP protocol. Those services are clearly telecommunications services under Commission rulings, and are subject to access charges. The regulatory status of true VOIP services – those involving net protocol conversions – is less certain. It is those services that are the subject of the Commission’s VOIP Rulemaking. In that proceeding, the Commission should clearly define VOIP services and when access charges apply to such services. If it does so, the Commission will presumably resolve Inflexion’s concerns. Unfortunately, Inflexion has not provided sufficient information in its Petition for the Commission to address those concerns in this declaratory ruling proceeding.

In sum, Inflexion’s Petition raises many questions, and leads to further uncertainty. For these reasons, the Commission should not grant the Petition for Declaratory Ruling.

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April 7, 2004

CERTIFICATE OF SERVICE

I, Ross Dino, do hereby certify that I have caused the **COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC. IN OPPOSITION TO THE PETITION FOR DECLARATORY RULING** to be filed with the FCC via the Electronic Comment Filing System; and a copy of the **COMMENTS** to be served via e-mail on 1) Jennifer McKee of the FCC, 2) Qualex International and 3) Counsel for Inflexion Communications Corporation.

/s/ Ross Dino  
Ross Dino

April 7, 2004

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